



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 160426363-7275-02; RTID 0648-XB854]

**Coastal Migratory Pelagic Resources of the Gulf of Mexico
and Atlantic Region; 2021-2022 Closure of Commercial Run-
Around Gillnet Fishery for King Mackerel**

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS closes commercial harvest of king mackerel in the southern zone of the Gulf of Mexico (Gulf) exclusive economic zone (EEZ) using run-around gillnet gear. NMFS has determined that the commercial annual catch limit (ACL) for king mackerel harvested by run-around gillnet gear in the Gulf southern zone has been reached. Therefore, NMFS implements an accountability measure (AM) and closes the southern zone to commercial king mackerel fishing using run-around gillnet gear in the Gulf EEZ on *[insert date of publication in the Federal Register]*. This closure is necessary to protect the Gulf king mackerel resource.

DATES: The closure is effective from 12 p.m. local time on *[insert date of publication in the Federal Register]*, until 6 a.m. local time on January 17, 2023.

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SUPPLEMENTARY INFORMATION: The fishery for coastal migratory pelagic fish in the Gulf includes king mackerel, Spanish mackerel, and cobia, and is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and Atlantic Region (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils. NMFS implements the FMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622. All weights for the Gulf migratory group of king mackerel (Gulf king mackerel) apply as either round or gutted weight.

The commercial fishery for Gulf king mackerel is divided into western, northern, and southern zones. The southern zone for Gulf king mackerel encompasses an area of the Gulf EEZ off Collier and Monroe Counties in south Florida, which is the EEZ south of a line extending due west from the boundary of Lee and Collier Counties on the Florida west coast, and south of a line extending due east from the boundary of Monroe and Miami-Dade Counties on the Florida east coast (50 CFR 622.369(a)(1)(iii)).

The commercial ACL for Gulf king mackerel is divided into separate ACLs for hook-and-line and run-around gillnet gear. The use of run-around gillnets for king mackerel is

restricted to the Gulf southern zone. The commercial gillnet quota (equivalent to the commercial gillnet ACL) for Gulf king mackerel is normally 575,400 lb (260,997 kg) and the current fishing year is from July 1, 2021, through June 30, 2022 (50 CFR 622.384(b)(1)(iii)(B)). However, on October 5, 2021, NMFS published a temporary rule in the **Federal Register** to reduce the commercial gillnet ACL for the 2021-2022 fishing year (86 FR 54871, October 5, 2021). NMFS determined that landings in the 2020-2021 fishing year of king mackerel harvested by run-around gillnet gear exceeded the commercial quota of 575,400 lb (260,997 kg) by 11,920 lb (5,407 kg). The AM specified in 50 CFR 622.388(a)(1)(iii) states if commercial landings of king mackerel caught by run-around gillnet gear exceed the ACL, then NMFS will reduce the commercial gillnet ACL in the following fishing year by the amount of the ACL overage. Therefore, NMFS reduced the 2021-2022 commercial gillnet ACL to 563,480 lb (255,590 kg) for the 2021-2022 fishing year.

Further, regulations at 50 CFR 622.388(a)(1) require NMFS to close any component of the king mackerel commercial sector when its applicable quota has been reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. NMFS has determined that for the 2021-2022 fishing year, landings have reached the commercial quota for Gulf king mackerel on

vessels using run-around gillnet gear in the southern zone. Accordingly, commercial fishing using such gear in the southern zone is closed at 12 p.m. local time on [*insert date of publication in the Federal Register*]. The next fishing season begins at 6 a.m. local time on January 17, 2023, *i.e.*, the day after the 2023 Martin Luther King, Jr. Federal holiday. Vessel operators that have been issued a Federal commercial permit to harvest Gulf king mackerel using run-around gillnet gear in the southern zone must have landed ashore and bartered, traded, or sold such king mackerel prior to 12 p.m. local time on [*insert date of publication in the Federal Register*].

Persons on a vessel using hook-and-line gear in the southern zone for which a Federal commercial permit for Gulf king mackerel has been issued, except persons on such a vessel also issued a Federal commercial permit to harvest Gulf king mackerel using run-around gillnet gear, may fish for or retain Gulf king mackerel unless the southern zone commercial quota for hook-and-line gear has been met and the hook-and-line component of the commercial sector has been closed. In addition, as long as the recreational sector for Gulf king mackerel is open (50 CFR 622.384(e)(1)), a person on a vessel that has a valid Federal commercial gillnet permit for king mackerel may continue to retain king mackerel under the recreational bag

and possession limits set forth in 50 CFR 622.382(a)(1)(ii) and (a)(2).

During the commercial closure, Gulf king mackerel harvested using run-around gillnet gear in the southern zone may not be purchased or sold. This prohibition does not apply to Gulf king mackerel harvested using run-around gillnet gear in the southern zone that were harvested, landed ashore, and sold prior to the closure and were held in cold storage by a dealer or processor (50 CFR 622.384(e)(2)).

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR 622.388(a)(1), which was issued pursuant to section 304(b) of the Magnuson-Stevens Act, and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment is unnecessary and contrary to the public interest. Such procedure is unnecessary because the regulations associated with the commercial quota and associated AM for Gulf king mackerel have already been subject to notice and public comment, and all that remains is to notify the public of the closure. Prior notice and opportunity for public comment on this action is contrary to the public interest because of the

need to immediately implement the closure to protect the Gulf king mackerel resource. The capacity of the commercial fishing fleet allows for rapid harvest of the commercial quota, and any delay in the closure could result in the commercial quota being exceeded. Prior notice and opportunity for public comment would require time and would potentially result in a harvest that exceeds the commercial quota.

For the previously stated reasons, there is good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness of this action.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: February 25, 2022.

Ngagne Jafnar Gueye,

Acting Director, Office of Sustainable Fisheries,

National Marine Fisheries Service.